

12-16-99

A/Reissue

Practitioner's Docket No. 498-53 CON/RES**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**Date: December 15, 1999Assistant Commissioner for Patents  
Washington, D.C. 20231

Jc542 U.S. PTO

09/464610

12/15/99

**REISSUE APPLICATION TRANSMITTAL**

Transmitted herewith is the application for reissue of U.S.

☒ Utility Patent    ☐ Plant Patent    ☐ Design Patent  
 No. 5,697,970 issued on December 16, 1997

Inventor(s): Schmitt, et al.Title: THINLY WOVEN FLEXIBLE GRAFT

Enclosed are the following:

**1. Specification, claim(s) and drawing(s) (37 C.F.R. § 1.173)**

- (a) ☒ 5 page(s) of specification  
☒ 5 page(s) of claims  
☒ 1 page(s) of abstract

**NOTE:** This must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets. Any additions made by the reissue must be underlined, so that the old and new specifications and claims may be readily compared. Claims should not be renumbered. The numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification. (37 C.F.R. § 1.173).

**CERTIFICATION UNDER 37 C.F.R. § 1.10\***

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this Reissue Application Transmittal and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date December 15, 1999, in an envelope as "Express Mail Post Office to Addressee," mailing Label Number: EJ279940144US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

M J Mullin

(type or print name of person mailing paper)

M J Mullin

Signature of person mailing paper

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

**\*WARNING:** Each paper or fee filed by "Express Mail" **must** have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

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(b) ☐ \_\_\_\_\_ sheet(s) of drawing (drawings amended,

☐ Formal

☐ Informal

NOTE: "Amendments which can be made in a reissue drawing, that is, changes from the drawing of the patent, are restricted." 37 C.F.R. § 1.174(b).

☒ No changes in the drawings, upon which the original patent was issued, are to be made. Therefore, in accordance with 37 C.F.R. § 1.174(a), please find attached, in the size required for original drawings:

☒ a copy of the printed drawings of the patent.

☐ a photoprint of the original drawings.

☒ A letter requesting transfer of the drawings from the original patent file to this reissue application is attached.

**2. Declaration and power of attorney**

☒ 6 pages of declaration and power of attorney

**3. Preliminary amendment**

(check, if applicable)

☐ Attached

**4. Offer to surrender the original letters patent in accordance with 37 C.F.R. § 1.178 is attached.**

☒ Offer to surrender is by the inventor

☒ along with assent of assignee.

☐ Offer to surrender is by the assignee of the entire interest (and the reissue application does not seek to enlarge the claims of the original patent).

**5. Letters patent**

☐ Original letters patent are attached.

☐ Declaration that original letters patent lost or inaccessible is attached.

☒ A copy of the original printed patent is attached.

NOTE: "The application may be accepted for examination in the absence of the original patent or the declaration but one or the other must be supplied before the case is allowed." 37 C.F.R. § 1.178.

NOTE: "Where the original patent grant is not submitted with the reissue application as filed, patentee should include a copy of the printed original patent. Presence of a copy of the original patent is useful for the calculation of the reissue filing fee and for the verification of other identifying data." M.P.E.P., § 1416, 7th ed.

NOTE: "If a reissue be refused, the original patent will be returned to applicant upon his request." 37 C.F.R. § 1.178.

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6. Petition to proceed without assignee's assent

☐ Attached hereto is a "PETITION TO PROCEED WITH REISSUE APPLICATION WITHOUT ASSIGNEE'S ASSENT".

A. ☐ The fee payment is authorized in the attached:

☐ "REISSUE APPLICATION TRANSMITTAL" Form

☐ "COMPLETION OF FILING REQUIREMENTS — REISSUE APPLICATION" Form.

B. ☐ Payment is authorized below.

7. Information Disclosure Statement

☒ Attached

☐ Copies of the IDS citation(s) is/are attached.

8. Priority—35 U.S.C. § 119

☐ Priority of application Application No. 0 / \_\_\_\_\_, filed on \_\_\_\_\_, in \_\_\_\_\_ is claimed under 35 U.S.C. § 119.  
Country

☐ The certified copy has been filed in prior application Application No. 0 / \_\_\_\_\_ filed on \_\_\_\_\_

9. Basic Filing Fee Calculation (37 C.F.R. § 1.16(h), (i) and (j))

CLAIMS AS FILED			
Number Filed	Number Extra	Rate	Basic Fee (37 C.F.R. 1.16(h)) \$760.00
Total Claims (37 C.F.R. § 1.16(i))	32 — 20 (and also in excess of total claims in patent)	12X \$18.00	216.00
Independent Claims 37 C.F.R. § 1.16(i))	5 — (number of inde- pendent claims in patent) (3)=2X	\$78.00	156.00
Filing fee Calculation			\$ 1,132.00

NOTE: Multiple dependent claims are treated as ordinary claims for fee purposes. 37 C.F.R. § 1.16(j).

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**10. Small Entity Status (if applicable)**

**NOTE:** A new statement is required for the reissue, even if one has been filed in the original patent. 37 C.F.R. § 1.27(a).

**WARNING:** "Small entity status must not be established when the person or persons signing the . . . statement can unequivocally make the required self-certification." M.P.E.P. § 509.03, 6th ed., rev. 2, July 1996 (emphasis added).

- ☐ A statement that this filing is by a small entity is  
☐ attached.

Filing Fee Calculation (50% of above) \$ \_\_\_\_\_

**NOTE:** If a statement is filed within 2 months of the date of timely payment of a fee, then the excess fee paid will be refunded on request. 37 C.F.R. § 1.28(a). Effective April 1, 1984.

**11. Additional Fee Payments**

- ☐ Payment is being made for "PETITION TO PROCEED WITH REISSUE APPLICATION WITHOUT ASSIGNEE"  
(37 C.F.R. § 1.17(h)) . . . . . \$130.00

**12. Total Fees Due**

Filing Fee	\$ 1,132.00
Petition fee	\$ _____
<b>Total Fees Due</b>	<b>\$ 1,132.00</b>

**13. Method Of Payment of Fees**

- ☒ Enclosed is a check in the amount of \$ 1,132.00  
☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_  
A duplicate of this request is attached.

**NOTE:** Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. § 1.22(b).

Please charge or credit our Deposit Account No. 08-2461  
for any deficiency or overpayment. A duplicate of this  
request is attached.

**14. Authorization To Charge Additional Fees**

**WARNING:** If no fees are to be paid on filing, the following items should not be completed.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

- ☒ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. 08-2461 :

☒ 37 C.F.R. § 1.16(a), (f) or (g) (filing fees)

☒ 37 C.F.R. § 1.16(b), (c) and (d) (presentation of extra claims)

**NOTE:** Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

☒ 37 C.F.R. § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

☐ 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a)).

☒ 37 C.F.R. § 1.17 (application processing fees)

**NOTE:** "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

**NOTE:** "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

☐ 37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b))

**NOTE:** Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. § 1.311(b).

**NOTE:** See 37 C.F.R. § 1.28.

**15. ☒ Additional Enclosures**

Reissue Declaration

Reg. No.: 30,152

Tel. No.: (973 ) 331-1700

Customer No.:

  
SIGNATURE OF PRACTITIONER

Salvatore J. Abbruzzese

(type or print name of practitioner)  
Hoffmann & Baron, LLP  
6900 Jericho Turnpike

P.O. Address

Syosset, NY 11791

Practitioner's Docket No. 498-53 CON/RES**PATENT****REQUEST FOR TRANSFER OF DRAWINGS FROM ORIGINAL PATENT  
TO REISSUE APPLICATION**

Please transfer the drawings from original patent, 5,697,970, filed on  
May 20, 1996, for the invention entitled THINLY WOVEN  
FLEXIBLE GRAFT

to the reissue application, the specification of which:

☒ is attached hereto.☐ was filed on \_\_\_\_\_, as reissue application num-  
ber /  
Signature of practitioner

Date:

Salvatore J. Abbruzzese

(type or print name of practitioner)

Reg. No.: 30,152

Hoffmann & Baron, LLP  
6900 Jericho Turnpike

P.O. Address

Tel. No. (973) 331-1700

Customer No.:

Syosset, NY 11791